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carry out their enforcement responsibilities under section 108 of the Act.

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(c) *Records related to certain requirements for mortgage loans*—(1) *Records related to requirements for loans secured by real property*—(i) *General rule.* Except as provided under paragraph (c)(1)(ii) of this section, a creditor shall retain evidence of compliance with the requirements of §1026.19(e) and (f) for three years after the later of the date of consummation, the date disclosures are required to be made, or the date the action is required to be taken.

(ii) *Closing disclosures.* (A) A creditor shall retain each completed disclosure required under §1026.19(f)(1)(i) or (f)(4)(i), and all documents related to such disclosures, for five years after consummation, notwithstanding paragraph (c)(1)(ii)(B) of this section.

(B) If a creditor sells, transfers, or otherwise disposes of its interest in a mortgage loan subject to §1026.19(f) and does not service the mortgage loan, the creditor shall provide a copy of the disclosures required under §1026.19(f)(1)(i) or (f)(4)(i) to the owner or servicer of the mortgage as a part of the transfer of the loan file. Such owner or servicer shall retain such disclosures for the remainder of the five-year period described under paragraph (c)(1)(ii)(A) of this section.

(C) The Bureau shall have the right to require provision of copies of records related to the disclosures required under §1026.19(f)(1)(i) and (f)(4)(i).

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§ 1026.26 Use of annual percentage rate in oral disclosures.

(a) *Open-end credit.* In an oral response to a consumer's inquiry about the cost of open-end credit, only the annual percentage rate or rates shall be stated, except that the periodic rate or rates also may be stated. If the annual percentage rate cannot be determined in advance because there are finance charges other than a periodic rate, the corresponding annual percentage rate shall be stated, and other cost information may be given.

(b) *Closed-end credit.* In an oral response to a consumer's inquiry about the cost of closed-end credit, only the annual percentage rate shall be stated, except that a simple annual rate or periodic rate also may be stated if it is applied to an unpaid balance. If the annual percentage rate cannot be determined in advance, the annual percent-

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age rate for a sample transaction shall be stated, and other cost information for the consumer's specific transaction may be given.

§ 1026.27 Language of disclosures.

Disclosures required by this part may be made in a language other than English, provided that the disclosures are made available in English upon the consumer's request. This requirement for providing English disclosures on request does not apply to advertisements subject to §§ 1026.16 and 1026.24.

§ 1026.28 Effect on state laws.

(a) *Inconsistent disclosure requirements.*

(1) Except as provided in paragraph (d) of this section, state law requirements that are inconsistent with the requirements contained in chapter 1 (General Provisions), chapter 2 (Credit Transactions), or chapter 3 (Credit Advertising) of the Act and the implementing provisions of this part are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a creditor to make disclosures or take actions that contradict the requirements of the Federal law. A state law is contradictory if it requires the use of the same term to represent a different amount or a different meaning than the Federal law, or if it requires the use of a term different from that required in the Federal law to describe the same item. A creditor, state, or other interested party may request the Bureau to determine whether a state law requirement is inconsistent. After the Bureau determines that a state law is inconsistent, a creditor may not make disclosures using the inconsistent term or form.

(2)(i) State law requirements are inconsistent with the requirements contained in sections 161 (Correction of billing errors) or 162 (Regulation of credit reports) of the Act and the implementing provisions of this part and are preempted if they provide rights, responsibilities, or procedures for consumers or creditors that are different from those required by the Federal law. However, a state law that allows a consumer to inquire about an open-end credit account and imposes on the creditor an obligation to respond to such inquiry after the time allowed in

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the Federal law for the consumer to submit written notice of a billing error shall not be preempted in any situation where the time period for making written notice under this part has expired. If a creditor gives written notice of a consumer's rights under such state law, the notice shall state that reliance on the longer time period available under state law may result in the loss of important rights that could be preserved by acting more promptly under Federal law; it shall also explain that the state law provisions apply only after expiration of the time period for submitting a proper written notice of a billing error under the Federal law. If the state disclosures are made on the same side of a page as the required Federal disclosures, the state disclosures shall appear under a demarcation line below the Federal disclosures, and the Federal disclosures shall be identified by a heading indicating that they are made in compliance with Federal law.

(ii) State law requirements are inconsistent with the requirements contained in chapter 4 (Credit billing) of the Act (other than section 161 or 162) and the implementing provisions of this part and are preempted if the creditor cannot comply with state law without violating Federal law.

(iii) A state may request the Bureau to determine whether its law is inconsistent with chapter 4 of the Act and its implementing provisions.

(b) *Equivalent disclosure requirements.* If the Bureau determines that a disclosure required by state law (other than a requirement relating to the finance charge, annual percentage rate, or the disclosures required under §1026.32) is substantially the same in meaning as a disclosure required under the Act or this part, creditors in that state may make the state disclosure in lieu of the Federal disclosure. A creditor, state, or other interested party may request the Bureau to determine whether a state disclosure is substantially the same in meaning as a Federal disclosure.

(c) *Request for determination.* The procedures under which a request for a determination may be made under this section are set forth in appendix A.

(d) *Special rule for credit and charge cards.* State law requirements relating

to the disclosure of credit information in any credit or charge card application or solicitation that is subject to the requirements of section 127(c) of chapter 2 of the Act (§1026.60 of the regulation) or in any renewal notice for a credit or charge card that is subject to the requirements of section 127(d) of chapter 2 of the Act (§1026.9(e) of the regulation) are preempted. State laws relating to the enforcement of section 127(c) and (d) of the Act are not preempted.

EFFECTIVE DATE NOTE: At 78 FR 80112, Dec. 31, 2013, §1026.28 was amended by revising paragraph (a)(1), effective Aug. 1, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 1026.28 Effect on state laws.

(a) *Inconsistent disclosure requirements.* (1) Except as provided in paragraph (d) of this section, State law requirements that are inconsistent with the requirements contained in chapter 1 (General Provisions), chapter 2 (Credit Transactions), or chapter 3 (Credit Advertising) of the Act and the implementing provisions of this part are preempted to the extent of the inconsistency. A State law is inconsistent if it requires a creditor to make disclosures or take actions that contradict the requirements of the Federal law. A State law is contradictory if it requires the use of the same term to represent a different amount or a different meaning than the Federal law, or if it requires the use of a term different from that required in the Federal law to describe the same item. A creditor, State, or other interested party may request the Bureau to determine whether a State law requirement is inconsistent. After the Bureau determines that a State law is inconsistent, a creditor may not make disclosures using the inconsistent term or form. A determination as to whether a State law is inconsistent with the requirements of sections 4 and 5 of RESPA (other than the RESPA section 5(c) requirements regarding provision of a list of certified homeownership counselors) and §§1026.19(e) and (f), 1026.37, and 1026.38 shall be made in accordance with this section and not 12 CFR 1024.13.

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§ 1026.29 State exemptions.

(a) *General rule.* Any state may apply to the Bureau to exempt a class of transactions within the state from the requirements of chapter 2 (Credit transactions) or chapter 4 (Credit billing) of the Act and the corresponding